

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
NO. 7:15-CR-46-6H

UNITED STATES OF AMERICA,)
)
)
v.)
)
)
CHRISTOPHER SALOMON,) **ORDER**
)
)
Defendant.)

This matter is before the court on defendant's motion to suppress. Following an evidentiary hearing on November 17, 2015, United States Magistrate Judge Kimberly A. Swank entered a memorandum and recommendation (M&R) on March 1, 2016, recommending denial of the motion. The defendant has objected, and this matter is ripe for adjudication.

Under Rule 59(b) of the Federal Rules of Criminal Procedure, a district judge must consider "de novo any objection to the magistrate judge's recommendation."

Defendant filed Objections, arguing (1) the record does not support a finding defendant freely and voluntarily waived his Fifth Amendment right against self-incrimination and (2) defendant's Sixth Amendment rights were violated.

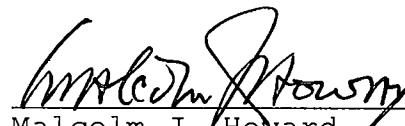
The court has carefully reviewed the objections made by defendant. The court finds these objections to be without merit. The court agrees with the magistrate judge's findings of

fact as well as the conclusions of law drawn therefrom. Defendant's objections seem to rely on the inference that the decision to waive his Miranda rights and talk to law enforcement, at his request, outside the presence of counsel must have been coerced because it was a very bad decision. Additionally, he argues the waiver of rights was a violation of his Sixth Amendment rights. Counsel admits he can find no case law directly on point, but argues "[i]t just does not seem kosher, so to speak, for several reasons." (Obj. at 12 [DE #237].) The issue is not whether defendant made a bad decision, but rather whether he made a knowing, voluntary and intelligent decision. The court agrees with the finding of the magistrate judge that the decision was voluntarily, knowingly, and intelligently made.

In addition to reviewing defendant's objections and finding them to be without merit, this court has conducted a full and careful review of the M&R and other documents of record. Having done so, the court hereby finds that the recommendation of the magistrate judge is in accordance with the law and should be approved.

Accordingly, the court hereby adopts the recommendation of the magistrate judge as its own; and, for the reasons stated therein, the defendant's motion to suppress is hereby DENIED.

This 29th day of March 2016.



Malcolm J. Howard
Senior United States District Judge

At Greenville, NC
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